



**DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES**

**GOVERNOR'S ADVISORY COUNCIL
TO THE DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES**

March 17, 2015

The Governor's Advisory Council to the Division of Developmental Disabilities Services met on March 17, 2015, at the 1056 Woodbrook Conference Room, Dover.

COUNCIL MEMBERS PRESENT: Terri Hancharick, Chair
Thomas Rust
Jamie Doane
Timothy F. Brooks, Ed.D.
Angie Sipple

STAFF MEMBERS PRESENT: Jane Gallivan
Marie Nonnenmacher
Marissa Catalon
Vicky Gordy - minutes

GUESTS PRESENT: Brian Hartman, Disabilities Law Program
Emmanuel Jenkins, We Stand for Something
Vicki Haschak, Elwyn
Cathy Cowin, Christina School District
Terry Olson, The ARC of Delaware

CALL TO ORDER: The meeting was called to order at 1:00 p.m.

NEXT MEETING: April 21, 2015 - 1:00 p.m.

APPROVAL OF MINUTES: The Council approved the January 20, 2015 minutes.

Family Support Waiver (FSW)

The Governor's recommended budget did not include additional funding proposed (\$877.7 funding proposed for dental services (\$565.2) and the nine staff to support the family support waiver (\$312.5)) for the FSW. The final meeting of the family focus group who reviewed and provided input to the FSW application occurred on February 3, 2015. The DDDS Director and Deputy Director scheduled time to begin completing the Family Support CMS Waiver Application to submit to the Office of Management and Budget and the Office of Controller General for review as mandated in the epilogue language. The amount of funding available for services will be small due to basing on available funding for families. DDDS continues to look for a broad menu of services to include in the FSW, although the amount of funding families may utilize will be small due to the amount of identified funding for program. DDDS supports the Governor's budget but has concerns of implementing and managing a new waiver without additional staff.

Supported Decision Making

The last “being a REAL person” meeting was held on January 30, 2015, and the next meeting is scheduled for April 10th (the March 6th meeting was rescheduled). DDDS Director identified a small grant that would help this initiative. A call to discuss the grant with DD Council and Office of Public Guardian is scheduled for March 24th.

DDDS Quality Working Group

The intent of this Working Group is to examine how to publish standards by which providers are ranked so that families can get a sense of how providers compare for different services via a “report card” process.

During the meeting of March 16th, the Working Group reviewed the draft report due to JFC by April 1st, per epilogue language. The draft report has two major themes, Quality Outcomes and Rates. The primary recommendation is to continue the work of Working Group; however, DDDS would require funding to provide technical assistance to continue to work forward (i.e. research, develop web-based system, etc.). Emphasis was given to the fact that development of a ranking system may require two or more years to complete and the Working Group is concerned that the gap in rates will continue to grow if waiting for system availability before additional funding is released. The Working Group discussed adding the recommendation to bring all rates to 80% of benchmark identified in rate report. The Working Group presented good feedback during meeting.

DDDS reached out to Oklahoma and South Carolina who provided information. Conversations with South Carolina occurred who is in the process of implementing a similar ranking system, scheduled to go online at end of month. Once program goes online, South Carolina will provide DDDS a link to review program. The website is interactive which is beneficial for an individual or parent to review different provider agency services using different logistics (can sort by county, service, rating level, etc.). The Working Group responded well to South Carolina’s concept.

Joint Finance Committee (JFC) Hearings

The DDDS JFC hearings are rescheduled for March 26th at 11:00 a.m.

CMS Transition Plan Work Group

The Delaware Statewide Transition Plan will be submitted to CMS by end of day, March 17th. The initial report that was published for public comment is the bones of report. The plan submitted to CMS includes compilations of all public comments including the responses from respective division. Once submitted, the plan will be published on the DMMA website. Based on comments, changes to plan occurred. The most significant change surrounds the timeframes. Most likely, CMS would not have approved the plan, as the timeframes were not appropriately aggressive. The NASDDDS website lists all approved and submitted state plans to CMS. Some specific plans received approval, although no statewide plans are approved date.

The GAC met on March 10th and determined the groups, associations, provider agencies, and councils who will be invited to assigned two participants (one for residential services committee work group and one for day services committee work group) in the work group.

GAC will develop two sub-committees, one for residential services, and one for day services that will include pertinent DDDS staff. GAC developed a list of contributors to be involved with groups including: (1) Providers identified via DeLARF; (2) Disabilities Law; (3) The ARC of Delaware; (4) Delaware Family Voices; (5) Developmental Disabilities Council; (6) Families Speaking Up; (7) State Council for Persons with Disabilities; (8) Governor's Advisory Council for Exceptional Citizens; (9) Center for Disabilities Studies; (10) Delaware People First, and GAC members. GAC members will divide to serve on one of the sub-groups. GAC asked if any other groups should be included please make them aware. A letter will be crafted to invite the above contributors to identify one participant for each sub-group, with a March 31, 2015 submit date. A meeting/conference call will be scheduled for April 2, 2015 at 1:00 p.m. for the GAC to regroup before the kick-off meeting of April 6, 2015.

The GAC Transition Plan Work Group is tasked to make recommendations to DDDS about assessment tools and a process to evaluate setting compliance with the CMS Rule. The same tool may be used to evaluate policy, procedures, laws, and regulations for the state. A self-assessment will be considered together with training on how to perform a self-assessment. The following is the basic chronology of Work Group.

Assist with the development of:

1. self-assessment tools
2. training to complete self-assessments
3. database format for self-assessments
4. process of sending and returning of assessments
5. a review process for returned self-assessments to evaluate information for database entry
6. identifying the percentage of "look behind"
7. identifying who will complete follow up assessments to ensure correctness.

The hope is that this will overlap to support the Quality Working Group, as DDDS quality assurance standards staff is included in both the Quality Working Group and the transition planning as much as possible. Some sites are presumed to be in compliance (i.e. supported employment sites), but may need some review for group employment.

Timeframe for initial tools is to be completed within the next 3-4 months, with all assessments being completed within 9 months from now (approximately January 2016).

The HCBS Basic Element Review Tool for Statewide Transition Plans Version 1.0 and tools from Tennessee and Massachusetts was distributed to Council. The Tennessee documents provide a Residential Provider Self-Assessment and a Residential Provider Self-Assessment Crosswalk where reference evidence is defined. It is obvious that Tennessee spent much time developing this process. Although there are no expectation to review the person centered planning process for compliance, since one should be in place, Tennessee developed an assessment tool to ensure person center planning process is in place. The Massachusetts document is guidance to providers to assist in compliance with setting requirements. DDDS continues research to locate sample assessment tools.

DDDS began reviewing internal policies and procedures to determine meeting Community Rule utilizing CMS questions used for settings that were transferred to the policy and procedures and attempted to determine if in line with Rule. If unsure, section remained blank to review later.

DDDS with contractor George Tilson has been reviewing and revising the ELP over the last 6-7 months. The completed draft ELP manual includes a couple of person-centered assessments. DDDS is close to developing a small pilot with the draft ELP to assure the process works. A robust pre-planning portion

was the critical piece missing from the original ELP. The process will change significantly due to the pre-planning process. DDDS connected with Neighbor's International, Inc. in New Jersey. Recently, the first of two activities planned was held to include 50 professionals across DDDS (family support specialist, case managers, case manager supervisors, etc.) as an introduction to person centered planning. Person centered planning was discussed during the three-day "train the trainer" session that was held on PATH and MAPS that included 20 employees.

Addition – The ARC of Delaware Litigation

The two ARC litigation cases are ARC vs. Ridge Associates (Dogwood Meadows) and ARC vs. Sugar Maple Farms.

The case involving Ridge Associates involves the bid ARC placed on a lot in a sub division (Dogwood Meadows). After the bid was place, one of the managers met with ARC Executive Director and asked questions about the group home. After the meeting, ARC was notified that the bid was declined, although was submitted at full value. The company reasons for declining bid were that five new homes being built in the neighborhood, some directly across the street from lot, commitments were made to developers and that a group home is not compatible with neighborhood, and had problems, although problems were not explained. The ARC filed a complaint with the Human Relation Commission under the Fair Housing Act.

The case involving Sugar Maple Farms involves the home association in Milford that has deed restrictions. ARC's bid was accepted and the contract was in place, subject to Sugar Maple's approval of the type of building placed on lot. After negotiations regarding the building, the offer was rejected based on covenant of each lot be used for single-family purposes. This has not been filed to date. The ARC of Delaware detained a law firm in Washington, DC (Relman, Dane & Colfax) who specializes in housing discrimination that was recommended by the Disabilities Law Program. The Disabilities Law Program legal aid was asked to serve as local council and has agreed. The ARC of the United States also has a staff attorney who asked to be co-council.

Thirty years ago a case involving deed restrictions where the homeowners association attempted to get an injunction so homes could not be used as group homes was filed. The Attorney General's Office stepped in as an amicus on behalf of "DMR". DDDS was encouraged to speak to Ann Woolfolk of Delaware's Office of Attorney General to request supporting DDDS as an amicus for these cases. This is a public policy initiative and providing state attorneys to explain would be beneficial to prevent adverse interpretations that may restrict ability for individuals we support to reside in community.

Addition – DDDS Vacancy and Development Report

The DDDS Vacancies and Development Report was reviewed. Currently there are 36 vacancies statewide (3.9%); 23 in group/neighborhood homes (9 are ARC homes) and 13 in CLA's. Since FY15 began, 50 individuals were placed, 8 have chosen placement site and are in process of being placed within the next five weeks, 89 are shopping for placement in various stages of process, and 34 individuals are at emergency temporary living arrangements (ETLA).

DDDS continues to monitor the growth of ETLA's. Some of the individuals had received letters to "shop" that DDDS was aware of, although emergency placement became necessary before choice was made. Many of the ETLA's are coming in via Adult Protective Services (APS) that DDDS has no knowledge of and some placed may not be eligible for DDDS services. DDDS has a Memorandum of Understanding with APS that states DDDS will make some presumptive eligibility and sort out

afterwards. Currently, DDDS has reached the ETLA limit of available placements. Shared living supports many ETLA placements and some, by individual choice, become permanent placements. Due to DDDS requiring a broader capacity, a survey was sent to provider agencies surrounding the possibility of providing ETLA placements to include an “ability to respond” timeframe.

Announcements and Informational Items

Dr. Terrence Macy will begin employment as the DDDS Community Services Director on March 23, 2015. Dr. Macy comes to Delaware from the State of Connecticut. Terry brings a wealth of experiences, including serving as the Commissioner for DDDS and previously was the Executive Director of a non-profit agency for many years. Connecticut also has a comprehensive family support waiver in place.

Delaware’s Annual Disability Day at Legislative Hall is scheduled for Wednesday, March 25, 2015, from 11 a.m. – 3 p.m. Attendees may preschedule to meet with Legislators.

Two GAC member vacancies continue to be addressed.

DDDS has upcoming events with Neighbor’s International, Inc. that was sent via the DDDS E-mail Notification List and distributed during meeting.

Adjournment

The meeting adjourned at 3 p.m.